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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 THOMAS K. MILLS,

12 Plaintiff,

13 v.

14 ZACHERY JONES, et al.

15 Defendants.  
16

No. 1:23-cv-1214 JLT SAB (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATION AND DENYING  
PLAINTIFF'S SECOND MOTION FOR  
SUMMARY JUDGMENT

(Docs. 34, 37)

17 Plaintiff asserts the defendants violated his civil rights during Plaintiff's incarceration at  
18 North Kern State Prison and moved for summary judgment on his claims. (Doc. 34.) The  
19 magistrate judge found the motion was premature because the defendants have not filed a  
20 responsive brief and discovery has not been opened yet. (Doc. 37 at 2.) Therefore, the magistrate  
21 judge recommended the motion be denied. (*Id.* at 3.)

22 The Court served the Findings and Recommendations on the plaintiff and notified him  
23 that any objections were due within 14 days. (Doc. 37 at 3.) The Court advised him that the  
24 "failure to file objections within the specified time may result in the waiver of rights on appeal."  
25 (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) Plaintiff did not file  
26 objections, and the time to do so has passed.

27 According to 28 U.S.C. § 636(b)(1)(C), this Court performed a *de novo* review of this  
28 case. Having carefully reviewed the matter, the Court concludes the Findings and

Recommendations are supported by the record and proper analysis. Thus, the Court **ORDERS**:

1. The Findings and Recommendations issued on January 4, 2024 (Doc. 37) are **ADOPTED** in full.
2. Plaintiff's motion for summary judgment (Doc. 34) is **DENIED**.

IT IS SO ORDERED.

Dated: **February 5, 2024**

  
UNITED STATES DISTRICT JUDGE